

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

WILLIAM POOLE,	:	CASE NO. 1:05-cv-2485
Plaintiff,	:	
vs.	:	OPINION & ORDER
UNITED STATES,	:	[Resolving Doc. No. 14]
Defendant.	:	
	:	

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On October 21, 2005, Petitioner Poole filed this § 2255 action to set aside his conviction, and he filed a memorandum of law on December 19, 2005. On December 20, 2005, the United States opposed the action.

This matter was referred automatically to United States Magistrate Judge James S. Gallas pursuant to Local Rule 72.2. [Doc. 3.] On October 30, Magistrate Judge James S. Gallas filed a Report and Recommendation recommending this Court the motion be granted with respect to his first, second, and fourth grounds to enable Poole to undertake a delayed appeal. But the Court not overturn his conviction at this time, pursuant to *Ludwig v. U.S.* [Doc. 14.] Neither party objects to the Magistrate Judge's recommendation.

The Federal Magistrates Act requires a district court to conduct a de novo review only of those portions of a Report and Recommendation to which the parties have made an objection. 28 U.S.C. § 636(b)(1). Parties must file any objections to a Report and Recommendation within ten days of service. Failure to object within that time waives a party's right to appeal the magistrate

Case No. 1:05-cv-2485
Gwin, J.

judge's recommendation. FED. R. CIV. P. 72(a); *see Thomas v. Arn*, 474 U.S. 140, 145 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Absent objection, a district court may adopt the magistrate's report without review. *Thomas*, 474 U.S. at 149. Moreover, having conducted its own review of the parties' briefs on the issue, this Court agrees with the conclusions of the Magistrate Judge.

Accordingly, the Court adopts in whole Magistrate Judge Gallas's findings of fact and conclusions of law and incorporates them fully herein by reference. The Court thus **GRANTS IN PART** the petitioner's habeas petition with respect to his first, second, and fourth grounds to allow Poole to undertake a delayed appeal.

IT IS SO ORDERED.

Dated: November 20, 2007

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE